

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

MARVIN R. ANDERSON,

Petitioner,

v.

CIVIL ACTION NO. 5:04-cv-001078
(Criminal No. 5:99-cr-00239-02)

UNITED STATES OF AMERICA,

Respondent.

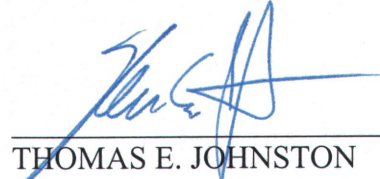
MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the Court is Petitioner's Motion to Set Aside Sentence Pursuant to Federal Rules of Civil Procedure Rule 60(b) [sic] [Docket 273]. By Standing Order entered July 21, 2004, and filed in this case on October 4, 2004, this action was referred to Magistrate Judge R. Clarke VanDervort for submission of a Proposed Finding of Fact and Recommendation ("PF&R") pursuant to 28 U.S.C. § 636(b)(1)(B). The magistrate judge submitted his PF&R [Docket 322] on November 8, 2007, recommending that this Court deny Petitioner's motion and dismiss the case from the active docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In this case, pursuant to 28 U.S.C. § 636(b)(1)(B), and Rule 6(e) and 72(b) of the Federal Rules of Civil Procedure, objections to the PF&R were due by November 28, 2007. To date, no objections have been filed.

For the reasons stated herein, the Court **ADOPTS** the magistrate judge's recommendation [Docket 322] and **DISMISSES** Petitioner's Motion [Docket 273]. The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: November 29, 2007

A handwritten signature in blue ink, appearing to read 'Th. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE